

If Judge Gorsuch fails to reach 60 votes, it will not be because Democrats are being obstructionists, it will be because he failed to convince 60 Senators that he belongs on the Supreme Court.

My friend the majority leader made the decision to break 230 years of Senate precedent by holding this seat open for over a year. If the nominee cannot earn the support of 60 Senators, the answer is not to break precedent by fundamentally and permanently changing the rules and traditions of the Senate; the answer is to change the nominee. This idea that if Judge Gorsuch doesn't get 60 votes, the majority leader has to inexorably change the rules of the Senate—that idea is utter bunk.

It is the free choice of my colleagues on the other side of the aisle to pursue a change in rules if that is what they decide. And I would remind the majority leader that he doesn't come to this decision with clean hands. He blocked Merrick Garland for over a year. We wouldn't even be here if Judge Garland had been given fair consideration. That is why we are here today—not because of any Democrat.

BORDER WALL

Mr. SCHUMER. Mr. President, finally, on the wall—a place where there may be more agreement between some of us than on Judge Garland—last night we learned that the Trump administration will be seeking deep cuts to critical domestic programs in order to pay for a border wall. The administration is asking the American taxpayer to cover the cost of a wall—unnecessary, ineffective, and absurdly expensive—that Mexico was supposed to pay for. He is cutting programs that are vital to the middle class in order to get that done.

They want to cut the New Starts Transportation Program and TIGER grants. These are the lifeblood of our road and tunnel and bridge building efforts. Build a wall or repair or build a bridge or tunnel or road in your community? What a choice. They want to cut off NIH funding for cancer research to pay for the wall. How many Americans would support that decision? They want to cut programs that create jobs and improve people's lives—all so the President can get his “big, beautiful wall”—a wall that we don't need and that will be utterly ineffective. Think about that. The President wants to slow down cancer research and make the middle-class taxpayer shoulder the cost of a wall that Mexico was supposed to pay for. He wants to cut funding for roads and bridges to build a wall that Mexico was supposed to pay for.

The proposed cuts the administration sent up last night will not receive the support of very many people, I believe, in this Chamber. These cuts would be bad for the American people. They are not what the American people want, and they are completely against one of the President's core promises in his

campaign. I believe they will be vigorously opposed by Members on both sides of the aisle.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

PROTOCOL TO THE NORTH ATLANTIC TREATY OF 1949 ON THE ACCESSION OF MONTENEGRO

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of Executive Calendar No. 1, the Montenegro treaty, which the clerk will state.

The senior assistant legislative clerk read as follows:

Treaty document No. 114-12. Protocol to the North Atlantic Treaty of 1949 on the Accession of Montenegro.

Pending:

McConnell amendment No. 193, to change the enactment date.

McConnell amendment No. 194 (to amendment No. 193), of a perfecting nature.

The PRESIDING OFFICER. The majority whip.

THE PRESIDENT'S BUDGET

Mr. CORNYN. Mr. President, I came to the floor to talk about the nomination of Judge Gorsuch to serve as the next Supreme Court Justice, and I happened to walk in while the Democratic leader was speaking. In the brief time I heard him comment this morning, I concluded that basically the Democrats are against everything. They are against everything. He knows as well as anybody that when the President sends over a budget, it is a proposal by the President that Congress routinely changes, arriving at its own budget priorities, working with the White House.

NOMINATION OF NEIL GORSUCH

Mr. President, before I get too distracted by the minority leader's opposition to anything and everything, let me comment a little bit on the Gorsuch nomination.

We will meet next week, on April 3, to vote Judge Gorsuch's nomination out of the Senate Judiciary Committee, at which time his nomination will come to the floor. The world had a chance to see—and certainly all of America—during the 20 hours that Judge Gorsuch testified before the Judiciary Committee that he is a superb nominee. He is a person with a brilliant legal mind. He has an incredible educational resume and extensive experience both in the public sector—working at the Department of Justice—and in private practice and then for the last 10 years, of course, serving as a

Federal judge on the Tenth Circuit Court of Appeals out of Denver.

I believe he is one of the most qualified nominees in recent history, to be sure, and you might have to go back into our early history to find somebody on par with Judge Gorsuch in terms of his qualifications for this important office. Unfortunately, in spite of this, we are seeing the minority leader threatening to filibuster this incredibly well-qualified judge. I hope other Democrats will exercise independence and do the right thing.

I was glad to see just yesterday our colleague, the former chairman of the Judiciary Committee, the senior Senator from Vermont, say that he had a different take. He was quoted in a Vermont newspaper—perhaps it is a blog—it is called VTDigger.org. Senator LEAHY, the former chairman of the Judiciary Committee, said: “I am not inclined to filibuster.”

Just for the benefit of anybody who might be listening, let me distinguish between the use of the filibuster as opposed to voting against the nominee.

It is a fact that there has never been a successful partisan filibuster of a Supreme Court nominee in American history—never.

The only time cloture was denied on a bipartisan basis of a nominee to the Supreme Court was in 1968, when Abe Fortas was nominated by then-President Lyndon Johnson. Mr. Fortas, then serving as an Associate Justice on the Supreme Court of the United States, had a number of problems, one of which was that he was still advising President Johnson while he was a sitting member of the U.S. Supreme Court. He was basically giving political advice from the bench to the President of the United States, with whom he had a long-established relationship.

Then there was a suspicion that Earl Warren, the Chief Justice of the United States, had cut a deal with the President such that he would resign effective upon the qualifying of his successor. So there wasn't any literal vacancy to fill. The President would then nominate Abe Fortas, then an Associate Justice, and he would then nominate Homer Thornberry, then a judge on the Fifth Circuit Court of Appeals, to fill the Fortas Associate Justice slot. There were a couple of embarrassing items to Judge Fortas that caused a bipartisan denial of cloture, or the cutting off of debate, after which his nomination was withdrawn after 4 days of floor debate.

I mention all of this because sometimes people want to lead you down this rabbit trail, claiming that what they are doing is something that is well established in our history and in this precedence of the Senate when that is absolutely not true. There has never been a partisan filibuster of a Supreme Court nominee that has been successful in denying that Justice to the Supreme Court's nomination to be confirmed—never. What Democrats are threatening to do next week when